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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

Case No. 2:13-cr-00376-JAD-GWF

8 Plaintiff,

ORDER

9 v.

(Mot Reconsider – Dkt. #27)

10 JOHNNIE RAMON HARRIS,

11 Defendant.

12 Before the court is Defendant's Motion for Reconsideration/Modification of Bail for New
13 and Good Cause Shown in Support Thereof (Dkt. #27). The court has considered the Motion,
14 the government's Response (Dkt. #28), and Defendant's Reply (Dkt. #29).

15 This is the second request to revisit the court's order detaining the Defendant. In a prior
16 Order (Dkt. #23) entered March 17, 2014, the court denied Defendant's first motion for
17 modification of bail which sought an own recognizance release or reduction in bail on the
18 grounds that Mr. Harris had recently been diagnosed with cancer which would require aggressive
19 treatment and therapy. The motion also argued that he should be released on his own
20 recognizance because the DUI case that was pending at the time the court initially detained him
21 had been negotiated to a "stay adjudication" which would be resolved by a conviction to a lesser
22 included offense of reckless driving.

23 The court denied the motion without prejudice noting that Harris had been detained as a
24 flight risk and a danger to the community for the reasons stated at the detention hearing and in
25 the written Detention Order (Dkt. #7). The motion for modification did not establish new
26 grounds for release not known to the Defendant at the time of the detention hearing that had a
27 material bearing on release as required under 18 U.S.C. § 3142(f). Additionally, the court
28 inquired of the U.S. Marshal's Service, who inquired of medical personnel at Nevada Southern

1 Detention Center about Mr. Harris' condition, and was informed that Mr. Harris had not been
2 diagnosed with cancer. At the time the court entered its order, a lump had been discovered, and
3 a biopsy procedure had been scheduled.


4 The current motion again asserts that Defendant's health has worsened and that it
5 "appears to be for all intents and purposes leading to a cancer diagnosis." Once again, the
6 motion is not supported by any medical record, declaration, affidavit or other statement by a
7 healthcare provider. At the time the court denied the initial motion, the U.S. Marshal's Service
8 reported that a biopsy procedure had been scheduled to evaluate the lump. The court received a
9 prompt report after the biopsy procedure was performed. Medical personnel report the biopsy
10 results were benign indicating that a cancer diagnosis was ruled out. For the second time defense
11 counsel has falsely represented to the court that Harris has been diagnosed with cancer.

12 The reply also argues the Defendant is the only one charged in the conspiracy and that his
13 co-conspirators are apparently out of custody and "may well be performing criminal activities
14 and harming the community in the way the Government is concerned about Mr Harris potentially
15 doing....(sic)". The court is not privy to the discovery, details about the nature of the offense
16 charged, or whether the government knows the identity of or has charged any alleged co-
17 conspirators. However, each Defendant charged with a federal offense is evaluated for release or
18 detention, a hearing held and a decision made based on the factors required to be considered
19 under the Bail Reform Act. That co-conspirators may be out of custody is not a justification for
20 reconsidering another Defendant's detention decision.

21 Having reviewed and considered the matter,

22 **IT IS ORDERED** that Defendant's Motion for Reconsideration/Modification of Bail
23 (Dkt. #27) is **DENIED**.

24 DATED this 23rd day of June, 2014.

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26 
27 PEGGY A. LEEN
28 UNITED STATES MAGISTRATE JUDGE